

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 16

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte FRIEDRICH PERROT

Appeal No. 97-1330
Application 08/345,813¹

ON BRIEF

Before THOMAS, BARRETT, and HECKER, Administrative Patent Judges.

BARRETT, Administrative Patent Judge.

¹ Application for patent filed November 22, 1994, entitled (as amended in Paper No. 6) "Timepiece Including Fixation Device For An Element Added To A Frame," which claims the foreign filing priority benefit under 35 U.S.C. § 119 of Swiss Application 03 485/93-5, filed November 23, 1993.

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DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the final rejection of claims 1-10.

We reverse.

BACKGROUND

The invention is directed to a timepiece having an added element which is detachably held on the frame of the timepiece with a fixation device. The prior art used screws to hold on added elements, such as a protective plate, but the assembling, dismantling, and reassembling often resulted in deterioration of the threads in the frame. The fixation device overcomes these problems by using a fixation device which rotates in the frame to secure the added element.

Claim 1 is reproduced below.

1. A timepiece comprising:

a frame;

a fixation means attached to the frame; and

an added element held on the frame in a detachable manner by the fixation means;

said fixation means being able to rotate while remaining at a constant height in relation to the frame to enable said added element to be unlocked and released;

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said fixation means having at least one bolt anchored in the material of the frame and axially immobilized in relation to the frame.

The Examiner relies on the following prior art:

Perrot	5,430,694	July 4, 1995
		(filed June 22, 1993)

Hayashi et al.	2,257,461	January
13, 1993		
(United Kingdom Patent Application, hereinafter '461)		

Claims 1-10 stand rejected under 35 U.S.C. § 103 as being unpatentable over '461 and Perrot. The Examiner finds that '461 "teaches all features claimed except for the various shoulders" (Final Rejection, page 1). The Examiner concludes that "[i]t would have been obvious to one of ordinary skill in the art at the time the invention was made to adapt U.K. Patent(461) to include claimed shoulders etc. as suggested by Perrot in order to secured [sic] the member firmly or in the alternative to provide Perrot with means to removably secure a member as suggested by U.K. Patent(461)" (Final Rejection, page 1).

We refer to the Final Rejection (Paper No. 7) and the Examiner's Answer (Paper No. 13) (pages referred to as "EA__") for a statement of the Examiner's position and to the Appeal

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Brief (Paper No. 12) (pages referred to as "Br__") and the Reply Brief (Paper No. 14) (pages referred to as "RBr__") for Appellant's arguments thereagainst.

OPINION

Appellant argues that the Examiner has not attempted to provide a motivation to combine the references (Br5): "He has merely taken bits and pieces from two separate references using Appellant's disclosure as a guide in an attempt to arrive at the present invention without even attempting to show motivation from the prior art as to why anyone of ordinary skill would make such modifications." Appellant further argues that '461 and Perrot are in conflict with one another for three reasons (Br6-7):

First, '461 teaches an added element which is held on the frame in a detachable manner (i.e., cover 14 may be opened and closed), whereas the added element in Perrot is not detachable (i.e., bridge 2 is permanently held on the frame 1 by a rivet 34; see col. 6, lines 11-12). Second, '461 teaches a fixation means (i.e., lock member 18) which rotates, whereas Perrot's fixation means (i.e., stud 34) does not rotate. Finally, Perrot's fixation means remains at a constant height in relation to the frame, whereas the fixation means of '461 does not.

The Examiner's statement of motivation (EA3) is accurately summarized by Appellant at (c)(1) and (c)(2) at RBr1. Basically, the Examiner states that the shoulder means

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of Perrot would be used to prevent the lock member 18 in '461 from being pulled from its location and to keep it secured to the frame. Appellant argues that '461 "already includes its own shoulders (see Figs. 1 and 5), making the shoulders of Perrot unnecessary" (RBr2) and that "[a] skilled artisan would not modify the rivet of Perrot to include the removable securing means of '461 because the rivet is clearly intended to permanently, not temporarily, hold bridge 2 on the frame 1" (RBr2).

We agree with Appellant's arguments. While the stud 34 in Perrot is very similar in appearance to the bolt in Appellant's drawings, the Examiner errs in finding that the only difference between the subject matter of claim 1 and '461 is the shoulders. The lock member 18 in '461 is spring biased and does not "rotate while remaining at a constant height in relation to the frame" as recited in claim 1. The rejection does not address this difference. Perrot discloses a stud 34 which is riveted to the base plate 1 and the bridge 2 to permanently fix the bridge to the base plate. Thus, Perrot does not disclose securing a detachable member or rotating a fixation element to allow a detachable element to be unlocked

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and released. These are the three reasons advanced by
Appellant. The Examiner has failed to establish a prima facie
case of obviousness. The rejection of claims 1-10 is
reversed.

REVERSED

JAMES D. THOMAS)	
Administrative Patent Judge)	
)	
)	
)	
)	BOARD OF PATENT
LEE E. BARRETT)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
)	
)	
STUART N. HECKER)	
Administrative Patent Judge)	

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